

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

MICHAEL JOSEPH PIZIAK,

Plaintiff,

v.

CIVIL ACTION NO. 5:23-cv-00421

THE STATE OF WEST VIRGINIA, *et al.*,

Defendants.

**ORDER**

Pending is Plaintiff's Application to Proceed Without Prepayment of Fees and Costs [Doc. 1], filed June 5, 2023. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on July 21, 2023. Magistrate Judge Aboulhosn recommended that the Court deny Plaintiff's Application, dismiss with prejudice Plaintiff's "Complaint(s)," and remove this matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent

objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on August 7, 2023. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 6**], **DENIES** Plaintiff’s Application to Proceed *in Forma Pauperis* [**Doc. 1**], and **DISMISSES WITH PREJUDICE** Plaintiff’s “Complaints(s)” [**Docs. 2, 5**].

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: September 5, 2023



*Frank W. Volk*

Frank W. Volk  
United States District Judge